

September 23, 2002

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **E0000109B**

THEMAR (GENE) SERR
Code Enforcement Appeal

Location: 37404 – 304th Way Southeast, Enumclaw

Appellant: Themar (Gene) Serr
PO Box 802
Ravensdale, WA 98051

King County: Department of Development and Environmental Services
Code Enforcement Section, *represented by* **DenoBi Olegba**
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 205-1528
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SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:	Deny appeal
Department's Final Recommendation:	Deny appeal
Examiner's Decision:	Appeal denied

EXAMINER PROCEEDINGS:

Hearing Opened:	September 19, 2002
Hearing Closed:	September 19, 2002

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes.
A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. On July 12, 2002, a notice and order was issued to Raymond Favors, James Favors, Themar (Gene) Serr, and Eddie Hogan for a series of alleged violations on a 64-acre parcel owned by Raymond Favors located in the RA-5 zone near Enumclaw. All of the cited parties filed timely appeals of the notice and order. At the appeal hearing held on September 19, 2002, staff requested that Mr. Hogan be dismissed from the proceeding because he had brought his portion of the property into code compliance. The evidence also demonstrated that the Favors family is moving expeditiously to correct violations on the portion of the property under their control, and they have been granted a 60-day continuance to further pursue code compliance. By contrast, Mr. Serr has made no attempt to effect the remediation of the conditions cited within the notice and order on the portion of the property that he leases, and this decision will only deal with Mr. Serr's claims. For administrative purposes the Favors' appeal on continuance has been redesignated file no. E0000109A while Mr. Serr's appeal is now file no. E0000109B.
2. Mr. Serr occupies approximately three acres of the cited property under an oral lease with Raymond Favors. The items of the notice and order that relate to Mr. Serr's leasehold include the illegal occupancy of travel trailers; accumulation and storage of inoperable vehicles including trucks, cars, boats, and tow trucks, and as well, accumulations of salvage parts for the foregoing vehicles; storage and placement of mobile homes without permits and inspections; and operation of an auto salvage yard in violation of zoning regulations.
3. There is some controversy between DDES staff and Mr. Serr over the exact number of vehicles that are on his portion of the site. Code Enforcement Officer DenoBi Olegba, based on his site inspections, relates that there are 13 travel trailers, 5 mobile homes, and at least 250 inoperable vehicles on the site. Mr. Serr claims that there are about 70 cars, an unspecified number of trucks, 3 mobile homes, and 8 travel trailers. Whatever the exact figure, the quantity of inoperable vehicles is sufficient to sustain the notice and order, and Mr. Serr has neither contested the allegation of residential occupancy of the travel trailers nor the lack of required permits for the mobile home. In addition to inoperable vehicles, the photographs submitted by staff show large piles of automobile tires and batteries and other automobile parts. These all support the notice and order citations.
4. The citation for operation of an auto salvage yard also must be upheld. The sheer number of vehicles on the site and the many piles of auto parts readily support this allegation, as do the photographs of Mr. Serr's portion of the property showing a commercial tow truck and a power winch on the back of a flatbed truck.

CONCLUSIONS:

1. The evidence of record is sufficient to uphold the notice and order issued by DDES to Themar Serr for the occupancy of travel trailers, unlawful accumulation and storage of inoperable vehicles and auto salvage parts, storage and placement of mobile homes without permits and inspections, and the operation of an auto salvage yard in violation of zoning requirements.

DECISION:

The appeal of Themar Serr is DENIED.

ORDER:

1. No penalties shall be assessed against Appellant Themar Serr if the conditions cited within notice and order relating to unlawful conditions on his leasehold portion of the property are corrected within 45 days of the date of this order.
2. If the compliance deadline stated in condition number one above is not met, DDES may assess penalties against Mr. Serr retroactive to the date of the notice and order and perform an abatement of the property.

ORDERED this 23th day of September, 2002.

Stafford L. Smith
King County Hearing Examiner

TRANSMITTED this 23th day of September, 2002, to the parties and interested persons of record:

James Favors
1807 SE 265th St.
Kent WA 98042

Raymond & Virginia Favors
2837 W. Lakeside Dr.
Moses Lake WA 98837

Eddie Hogan
POB 361
Enumclaw WA 98022

Phil Kitzes
PK Enterprises
23126 SE 285th St.
Maple Valley WA 98038

Themar (Gene) Serr
POB 802
Ravensdale WA 98051

Anna R. Smith
18704 SE 265th St.
Kent WA 98042

Elizabeth Deraitus
DDES/BSD
Code Enforcement Supervisor
MS OAK-DE-0100

Beverly Harrelson
DDES/BSD
Code Enforcement Section
MS OAK-DE-0100

DenoBi Olegba
DDES/BSD
Code Enforcement
MS OAK-DE-0100

Heather Staines
DDES/BSD
Code Enforcement-Finance
MS OAK-DE-0100

NOTICE OF RIGHT TO APPEAL

The action of the hearing examiner on this matter shall be final and conclusive unless a proceeding for review pursuant to the Land Use Petition Act is commenced by filing a land use petition in the Superior Court for King County and serving all necessary parties within twenty-one (21) days of the issuance of this decision. The Land Use Petition Act defines the date on which a land use decision is issued by the Hearing Examiner as three days after a written decision is mailed.

SLS:mls
E0000109B RPT

MINUTES OF THE SEPTEMBER 19, 2002 PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. E0000109.

S.L. Smith was the Hearing Examiner in this matter. Participating in the hearing were DenoBi Olegba, representing the Department; Appellant Themar (Gene) Serr; and Anna. R. Smith.

The following exhibits were offered and entered into the record:

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|----------------|---|
| Exhibit No. 1 | DDES Report to the Hearing Examiner dated September 19, 2002 |
| Exhibit No. 2 | Notice of Violation |
| Exhibit No. 3A | Notice and Statement of Appeal |
| Exhibit No. 3B | Email to Anna Smith from DenoBi Olegba dated July 31, 2002 |
| Exhibit No. 3C | Notice and Statement of Appeal-Eddie Hogan |
| Exhibit No. 3D | Notice and Statement of Appeal-James Favors |
| Exhibit No. 4 | Photographs Showing Violations |
| Exhibit No. 5A | KC Violation Notice |
| Exhibit No. 5B | Copy of the notice that was posted |
| Exhibit No. 5C | Copy of the notice that was posted-Gene |
| Exhibit No. 5D | Copy of the notice that was posted on 11/19/01 |
| Exhibit No. 5E | Stop Work Order |
| Exhibit No. 5F | Copy of the notice that was posted on 2/19/02 |
| Exhibit No. 5G | Stop Work Order |
| Exhibit No. 5H | Copy of the notice that was posted on 2/19/02 |
| Exhibit No. 5I | KC Violation Notice dated 12/12/01 |
| Exhibit No. 6A | Letter to Raymond Favors from DenoBi Olegba dated July 12, 2002 |
| Exhibit No. 6B | Letter to Raymond & Virginia Favors from DenoBi Olegba dated November 1, 2001 |
| Exhibit No. 7 | Code Sections |